

Marlon G. Kirton, P.C.

Marlon G. Kirton, Esq.

New York City:
230 Park Ave. Suite, 1000
New York, N.Y. 10169
Tel # (646) 435 - 5519
Fax # (212) 808 - 3020

Nassau County:
175 Fulton Ave. Suite B-1
Hempstead, N.Y. 11550
Tel # (516) 833 - 5617
Fax # (516) 833 - 5620

November 17, 2013

VIA ELECTRONIC MAIL

Hon. William H. Pauley III
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Chichakli*, 09 cr. 1002 (WHP)

Dear Judge Pauley:

I am Stand By counsel for the above referenced defendant. I did meet with my client yesterday at the Metropolitan Correctional Center (MCC). I request an adjournment of the scheduled trial to, Monday, December 3, 2013, in order to give Mr. Chichakli adequate time to prepare for trial. I also request that a representative of the Metropolitan Detention Center's (MDC) Legal Department appear in person at our next scheduled conference, Monday November 18, 2013 at 11:00a.m.

MR. CHICHAKLI'S CONDITION

I saw Mr. Chichakli yesterday at the MCC. He was brought in from the Special Housing Unit (SHU) at the MCC. The meeting lasted about two (2) hours. He was pale and weak. He looked dehydrated. He appeared to have suffered weight loss. He cried for about 20 of the first 30 minutes of the meeting. He looked like a broken man. However, he was coherent after the first 30 minutes. We did discuss a number of issues related to the case and seemed to follow everything.

He said he had not eaten for three (3) days because he was in the SHU at either MDC or MCC since November 9, 2013. He was given his first Kosher meal after being in the SHU for about

three (3) days at the MDC. Apparently, that meal was not properly preserved, it made him sick and he spent the next two (2) days vomiting. He was not given his prayer book until yesterday. He also, as of yesterday, has access to proper kosher meals.

MR. CHICHAKLI'S PLACEMENT IN SPECIAL HOUSING

Mr. Chichakli was on the computer at the MDC on November 9, 2013 typing an email or a letter, when he was approached by several BOP employees. He was brought by them to the SHU. He was told that 1. He objected to his new cell mate and 2. He disobeyed an order of a BOP employee. Later that day, he was given a ticket for a violation of the BOP rules and he remained in the SHU until his transfer to MCC on November 14, 2013. Mr. Chichakli passed out when he was given the ticket. As far as the defense is aware, this is his first violation.

The defense requests the presence of a representative of the MDC Legal Department at the next conference to explain this situation. I am troubled by the timing of his placement in the SHU. I am troubled by his lack of access to legal his legal file during his time in the SHU. I am also troubled by the fact that no one from MDC Legal returned any of my calls concerning Mr. Chichakli's condition. Finally, I am troubled by the competing versions as to why Mr. Chichakli was placed in the SHU in the first place.

MR. CHICHAKLI'S TRIAL PREPARATION

Mr. Chichakli had no access to his legal work from November 9, 2013 until yesterday, November 15, 2013. He did not review any of the papers he already possessed, nor review the numerous documents sent to him by the Government. These documents include the 3500 material, Government Exhibits, Proposed Voir Dire and Proposed Requests to Charge. He had no access to his lap top computer, during the same period. Finally, he had no access to the email system during the same period of time.

As of the morning of November 15, 2013, Mr. Chichakli has access to about 85% of the paper documents in his legal file. The other 15% could not fit in the bins he was given at the MDC to carry his legal work. He was told that the balance of the paperwork would be sent to him at a later date. As of yesterday, he still has not received the balance of the paper documents. As of yesterday, he has no access to the lap top computer. As of yesterday, he has no access to email services.

Mr. Chichakli still wants to represent himself and still wants to start the trial on Tuesday, November 19, 2013. I recommend that the trial be delayed for two (2) weeks to December 3, 2013. Mr. Chichakli will be substantially prejudiced if he were to start trial under these conditions. I don't believe he can be ready for trial. I also know that he has no ability to file any responses to the Government's Proposed Requests to Charge and Proposed Voir Dire at this time.

Please contact me if you have any questions or concerns.

Sincerely,

s/Marlon G. Kirton

Marlon G. Kirton, Esq.

cc: Christian Everdell, Assistant United States Attorney (via mail)
Ian McGinley, Assistant United States Attorney (via mail)